Disability Visibility Podcast

Episode 41: Deaf in Prison

Guests: Claudia Center and Talila "TL" Lewis

Host: Alice Wong

Transcript by Cheryl Green

For more information: https://disabilityvisibilityproject.com/podcast/

Introduction

[radio static, hip-hop beat]

LATEEF: This is the Disability Visibility Podcast with your host, Alice Wong.

ALICE WONG: Hey everyone, this is the last episode of 2018, can you believe it? I'm your host Alice Wong and welcome to the *Disability Visibility Podcast*, conversations on disability politics, culture, and media. Today's episode is about is about Deaf people in prison. My guests are Claudia Center, Senior Staff Attorney in the Disability Rights Program of the American Civil Liberties Union, ACLU, and TL Lewis, community lawyer and co-founder and volunteer director of HEARD, Helping Educate to Advance the Rights of Deaf Communities (H-E-A-R-D). Both Claudia and TL will talk about a case filed by the ACLU on June 20th, 2018, on behalf of 14 D/deaf and hard-of-hearing inmates in Coen v. Georgia Department of Corrections.

This suit says Georgia is violating the Americans with Disabilities Act and the U.S. Constitution's protections against cruel and unusual punishment because they are denied communication access. TL and Claudia will discuss their roles in this case and the major issues facing incarcerated D/deaf and hard-of-hearing people in Georgia and nationally. Please note our conversation was recorded in August 2018. Are you ready? [electronic beeping] Away we go!

ELECTRONIC VOICE: 5, 4, 3, 2, 1!

ALICE: TL and Claudia, welcome to my podcast. I am so thrilled to be talking with you both today.

TALILA "TL" LEWIS: My name is Talila Lewis. Everybody calls me TL. I'm an attorney, former professor, but still an educator, and I like to kind of say that I live, organize, litigate, and work at the intersections of race, class, disability, and other marginalities. I'm happy to be here.

CLAUDIA CENTER: Hi, I'm Claudia, and thank you, Alice, for having me on your podcast. I'm a disability rights lawyer. I care a lot about the disability community. Like a lot of lawyers, I have a personal and family history of depression; that's pretty common. And I work for the ACLU, and I used to work for the Legal Aid Society of San Francisco. I live in San Francisco.

[lightly pulsing ambient music break]

ACLU lawsuit Coen v. Georgia Department of Corrections

ALICE: And the reason why I'm talking with you both today is about a lawsuit filed by the ACLU on behalf of several deaf and hard of hearing imprisoned people in Georgia this past year called

Coen v. Georgia Department of Corrections. So, I guess I'd like to ask both of you your role in this case and how you first became involved in it.

TL: I worked with deaf people in the State of Georgia who are incarcerated and formerly incarcerated—so we call them—or returned individuals for about seven years, almost eight years. And the journey in finding attorneys to represent deaf, deaf-blind, deaf disabled, hard of hearing, and other disabled people who are trapped in the clutch the criminal-legal system is something that I don't think most people really appreciate. But it literally took about five to six years to find attorneys that had the resources, the wherewithal, the heart, and the willingness to step up and do something meaningful to support the organizing by those who were already on the inside in Georgia. And so, I'm really grateful to the Disability Rights Project at the ACLU, especially for their leadership and support in litigating this project. So, I'm supporting more so as a disability and deaf cultural community member and also obviously, as an attorney, but I'm learning a great deal from Claudia Center and Susan Misner, who've been litigating for quite some time on disability and deaf rights issues.

CLAUDIA: On this case, I've primarily been working on helping the whole team translate the problems of our clients and their stories and translating those into the language of litigation. So, that means working on the complaint, working on motions where we ask the court to let us do certain things, helping our clients get their stories down on paper, talking about the strategy of the case, and all that. So, I've been primarily playing a lawyer role on this case so far.

ALICE: Originally, I think there were 14 people listed in the complaint, but what's your kinda sense of how many people that you think ultimately might be represented?

CLAUDIA: We think there are 130 deaf and hard of hearing inmates currently incarcerated in Georgia, and that's certainly an undercount. And we think that there are more than 500 in the community who are being supervised and face the same problems of lack of communication access. We want to represent the entire, what we call in litigation, class of individuals who are deaf and hard of hearing and are either incarcerated or formerly incarcerated and still supervised by the State of Georgia. And so, we think that'll be hundreds of people, so we wanna serve as many as possible. And we want to establish communication access in a number of ways that are really important and are gonna take a lot of work.

TL: The goal is to find as many people as we can because we know that those who have not been found are not being, probably not being, provided for, and we wanna intervene as best as we can and make sure that the world remembers them and that they're not forgotten but also, obviously, to make our class as strong as it possibly can be.

[lightly pulsing ambient music break]

Some major issues facing incarcerated deaf and hard of hearing people in Georgia

ALICE: You know, the complaint charges that Georgia's prison, probation, and parole systems fail deaf and hard of hearing prisoners, leaving people to go to prison more often, stay longer, and to return to prison more quickly. What are some of the major issues facing incarcerated deaf and hard of hearing people in Georgia?

TL: So, I think we have to start with understanding the broader context of the crisis of mass incarceration. Right now, we have 2.3 million people incarcerated in prisons and jails across the United States, and the vast majority of folks who are incarcerated have disabilities. That's the first thing. And the second is among those people with disabilities, there's a disproportionate representation of negatively-racialized people. So, that's Black people, Indigenous people,

Latinx people, and other people with racialized identities that are not seen as positive. And so, I think just kinda contextualizing that is critically important. Just the hierarchical structure within prison systems create this torrent that allows for an actually kind of begs for levels of abuse and exploitation especially from those at the margins of the margins. So, that's the broad context.

CLAUDIA: In our complaint, and when we talk to our clients, we're trying to tell the story of how there's a total failure of communication access in pretty much every important interaction that people are having in Georgia prisons or on supervision. So, for example, a person arrives at a prison, and there's an orientation. That's where you're supposed to learn about all the rules and how to hopefully not have problems or more problems. And so, that orientation is not accessible to deaf and hard of hearing people, so people don't understand what the rules are. People maybe have medical appointments for serious conditions. They go see the doctor, and there's no communication. Our clients have had cancer, they've had surgeries, they've had really serious head injuries and going to the doctor and no interpreter. It's really horrible.

There's a grievance procedure, but the grievance procedure is never explained in ASL. So, people who are deaf and who have limited English proficiency are not able to access the grievance system at all. People go to disciplinary hearings without any interpreter and without any communication. They go into solitary without any communication access and experience solitary as an even greater torture than somebody who's not deaf or hard of hearing. People aren't able to call their friend s and family members. There's no accessible telecommunications: no video phones, no caption phones, no amplified phones. The information's not accessible about parole or probation, so people don't even know when they're gonna get out or how they can get out. So, those are just some of the examples.

[electronica music break]

It's not part of our case, but before people have come to prison, sometimes they've been interrogated or given lie detector tests or arrested with no interpreters, no communication access.

TL: I kinda wanna add to the long list that Claudia's already created of some of the issues on the inside before I jump back to how folks arrive on the inside, which is another crisis all together. But courses that are required for exiting the prison which hearing folks have access to, deaf, deaf-blind, deaf disabled, and hard of hearing folks have no access to. In terms of being able to follow rules and conditions of parole and probation, what we've seen is that many of our folks are actually being deemed violators of parole and/or probation for not following the rules that they never received access to, that were never conveyed to them in any accessible format at all. And I think it's important to name the more daily grind type of violence, right, that we might not be able to name in the complaint. So, things like teasing about their disabilities, mocking, not being able to eat. Everything in the prison system is auditory, right? The system is audist, right? It's based around this idea that everyone can or should be able to hear, and if you can't for some reason, then too bad, right? So, missing meals, missing visits with loved ones, all of those things actually cause disabilities that are not related to deafness; it's related to years and months even sometimes days of ableism. [matter of fact chuckle] And so, managing that.

And then going back to Claudia's original statement about many of our folks not even receiving access to the front end of the criminal-legal system: what's clear that law enforcement attorneys, defense attorneys, the courts are not actually in many cases not providing what they are required to provide pursuant the federal disability rights laws in terms of effective and equal communication access to the legal system. And that actually leads to wrongful convictions. And once a deaf person arrives, due to this deprivation of all communication, they aren't able to—as

a hearing wrongfully-convicted person might be able to—contact the Innocence Project, contact their appellate attorney and say, “Here’s my side of the story. Here’s what happened,” these sorts of things. And they can’t even contact us. It’s a evil irony, I think, that we’re fighting for access to communication, and we attorneys are literally having to fly to them just to be able to gain information simply because the prisons have made it impossible to communicate with our community members who are on the inside, our clients.

ALICE: Yeah, the complaint states that the State of Georgia’s violating the Americans with Disabilities Act and the U.S. Constitution’s protections against cruel, unusual punishment. And I do think that the lack of communication access, as you mentioned TL, is also creating trauma and a whole host of other additional forms of violence and disabilities on top of their existing disabilities. So, in a way, it is incredibly cruel and unusual.

[mellow music break]

The current state of the case and possible future directions

ALICE: Claudia, I was wondering if you could tell me what is the current status of the case? And I’d like to ask both of you what direction do you think this case will go in the future?

CLAUDIA: So, litigation tends to go in cycles where we have big flurries of activity, and then we have a lot of waiting. And so, that’s frustrating for the lawyers, but it’s also very frustrating for clients, especially clients who are in prison. Right now, we’re kind of in between some cycles of activity. We filed a request with the judge, a motion with the judge in an existing case, which was brought by one of the first people in Georgia, a deaf man who was incarcerated. He brought a case on his own behalf a couple of years ago, and we are trying to amend his case to bring a class action for all of the people affected by this lack of communication access. So, we have appeared in his case, we have filed a motion to amend the complaint to add the class action, and we’re waiting for the judge to either decide that motion or to hold a hearing on that motion. So, we’re still working very hard on the case. We are collecting evidence for our next motion that we hope to file, but we’re also waiting on the judge.

TL: I just, I think it’s important to be as clear as we can in that people in prisons and jails across the nation have been organizing and fighting against these deprivations and acts of violence for decades. And the fact that it’s 2018, and we have the Rehabilitation Act—which was passed in the 70s—and we have the Americans with Disabilities Act—which was obviously passed in ’90—I think it just speaks to the need for more critical conversation within our communities and a more intentional centering of the people who are the most impacted. And I think having an intersectional approach to having those conversations is gonna be really important in liberating all of us.

ALICE: I agree.

[somber piano music break]

Campaigns and activities from HEARD

ALICE: Clearly, communication access in prison is a problem not just in Georgia but, as you said, everywhere. And TL, I was wondering if you could tell me a little bit more about your work with HEARD, which stands for Helping Educate to Advance the Rights of deaf Communities and the various campaigns and activities that you and your colleagues have been doing for years?

TL: HEARD is a volunteer-dependent organization that focuses on ending all forms of violence against defendants, incarcerated people, formerly incarcerated people, and family members, so anyone who's affected by the carceral system as it were. And obviously, in this case we're kind of serving as a mediator between attorneys, the legal system, and our incarcerated community members. Because we had developed a relationship with those folks who are incarcerated in Georgia, it was easy for us to serve in that role. So, that's a clear example of the importance of taking the time to meet with and correspond with those who are on the inside.

We started tracking folks who are deaf, deaf-blind, deaf disabled, and hard of hearing in prison systems all across the nation, and we did that because we were finding back in 2007, 2008—this is before HEARD kind of came around, and it was just a bunch of community members doing community organizing; and it's still that. We just kinda smacked the name on top of us—before that, when we would call a prison after having driven to or flown to on our own dime deaf folks who were incarcerated, we find that the warden or the unit manager or the counselor would say, "Oh, we don't have any deaf people here." This being right after we had met with them and asked them what their accommodations needs were, etc. And we realized that so long as the world could continue to say that deaf people, disabled people, and other marginalized people in the system didn't exist, they could continue to perpetuate failure to provide everything that they're supposed to be providing pursuant to law and pursuant to just basic human decency, right?

And so, we created a database. We created the only national database of deaf, deaf-blind, hard of hearing, and deaf disabled people in the system, and that's been growing. So, we started with like seven people, and now we've been able to find over 600. But obviously, it's just the tip of the iceberg. Finding deaf incarcerated people is almost impossible. We depend on the community very heavily to share information about where our people are. We wanna find every single person.

We created the first and only hotline in history. So, we have a hotline that's set up a couple of days a week for set hours, and deaf folks who are on the inside who have a TTY, who have a video phone are able to call us and share some of the issues and concerns they have. We respond to hundreds of letters from incarcerated deaf, deaf-blind, deaf disabled, and hard of hearing folks annually, if not thousands.

And then a very important campaign that I'll name, there's two. The first is the fight to get video phones installed in prisons and jails all across the nation. So, back in 2012, we went to the Federal Communications Commission in solidarity with over 40 other social justice advocacy organizations and said, "Hey, look. Not only should phone calls from prisons be affordable," because right now, very large prison phone companies are price-gouging families and incarcerated people just to make contact with their loved ones. And so, not only were they not affordable, but they're completely inaccessible. So, that's been a, literally a, I guess we're going on year—I don't know—eight of trying to get the Federal Communications Commission to mandate something more meaningful across the nation instead of being this state-by-state, jail-by-jail, prison-by-prison, or system-by-system advocacy.

And the last thing I'll mention before I hand it back over: it's so easy to find ways to exploit people who are incarcerated. They're quite literally a captive target. And if you are deaf disabled, you're even a much better target. I should mention also blind people who are suffering mightily at the hands of our carceral systems. That said, certain companies have created programs within the prison in Louisiana whereby hearing incarcerated people are "trained" to become interpreters. And what we know is one, that that's incredibly dangerous, just if you look

at the idea of another incarcerated person having access to your information. But secondarily if not primarily, it's a direct violation of the Americans with Disabilities Act: forced reliance on another incarcerated person as opposed to providing what we call a qualified, neutral interpreter, right? Another incarcerated person can never be neutral in the same way that we tell people that a police officer can never be neutral. So, you never wanna have a police officer "interpreting" for you. They could be the best signer in the world. There's no neutrality there, so it's a violation. It's not ethical.

ALICE: Great. Thank you, TL.

Current status of the case and other ACLU work

ALICE: And Claudia, I guess could you give a update on the current status of the case?

CLAUDIA: Sure. So, litigation tends to go into cycles and cycles of great activity, and sometimes we're waiting for the judge. So, we had a big filing in June where we filed our complaint, and we asked the judge to allow us to expand an existing case brought by our lead plaintiff, Jerry Coen, into a class action case. And that took a lot of work in large part because we had to help our 14 named plaintiffs finish what's called their grievances. They had to exhaust their grievances, and the grievance procedure is entirely inaccessible. So, this involved many in-person trips to visit the clients and to help people with the grievance procedure so that we could have that finished when we did our big filing in June. So, now we are waiting for the judge to let us know if we're allowed to expand the case. We're hopeful that he will say yes. It's possible he'll schedule a hearing. And in the meantime, we're getting ready and collecting declarations with the stories of all of our main plaintiffs and witnesses.

ALICE: Great. Thank you. And is there anything you'd like to share about your work in the Disability Rights Program in the ACLU outside of this case?

CLAUDIA: My job in great part at the ACLU is bringing the disability issue into the core ACLU issues. So, I help bring the disability angle or the aspect into the fight against mass incarceration because the three of us know there's no way to deal with mass incarceration without talking about disability. It's just, it just does not work. We bring disability into voting rights. We bring disability into the fight for autonomy and the right to bodily autonomy and other types of autonomy. And we bring disability into the school-to-prison pipeline. So, that's some of the examples of how we work to make sure disability is part of the core civil rights and civil liberties issues of the ACLU.

[lightly pulsing ambient music break]

Wrap-up

ALICE: Any other final thoughts you wanna share about this case and also how people can support the work that you're doing at HEARD and ACLU?

TL: We had volunteers from around the globe contribute to translating this community statement into American Sign Language—so, there's a blog—into Spanish, and then obviously, we had it in English as well. But we're just so proud to see so many people stepping up, really caring about this issue. And that's really what HEARD is all about, is helping people be more conscious of a lot of the issues that we're facing as a collective community: that's communities, all disability communities but then also other marginalized communities. So, we're really proud of that and really grateful to those who spent their time and energy and heart and dedicated

their hands and knowledge to making sure that that information could be shared as widely as possible.

So, HEARD again is a volunteer-dependent organization, so any and all donations are certainly welcome. We also have a couple of hashtags that your listeners and readers might be interested in: #deafInPrison, #deafAccestoJustice, #DecriminalizeDisability, and #DisabilitySolidarity are a couple. And that's a way for people to kind of get more active and involved in understanding some of the issues. [27/09 You'll find a lot of information.] We're also on Twitter and Instagram. Our handles on both are @BeHEARDDC. And then we're also on Facebook. If you just search our full name: Helping Educate to Advance the Rights of deaf Communities, or if you just use the / after Facebook and write "HEARDDC," so not the "Be" in front of it. Just Facebook.com/HEARDDC. We're quite active there as well.

And we always encourage people to contact us if they're willing to visit incarcerated people in prisons in or around their areas and who are just interested in volunteering in other ways. We always find ways for people to help out. It just depe nds on interest, time, and talent.

ALICE: Great. So, Claudia, I guess how can people find out more about the Disability Rights Program at the ACLU, and also, how can they support the work at the ACLU?

CLAUDIA: Well, there's a lot of information on ACLU.org on the website about all the work of the ACLU, and you can search for "disability." And I would urge people to follow the ACLU on Facebook and Twitter and to engage with the posts that are about disability. So, if you find them interesting, click "like" or retweet. I think that's really important to show the ACLU community how important disability rights are. And I think you should donate to HEARD, so definitely do that.

ALICE: Awesome. And did you have any final thoughts about this case that you'd like to share?

TL: So, I'm actually in Georgia right now. I think I just wanna uplift the fact that we have community members who are incarcerated and who are just as human as all of us and who have all of the same needs and desires. And I just really wanna encourage people to start being a little bit more intentional about centering conversations about incarceration, about the criminal-legal system, about prison abolition. Maybe you're not there yet, but I encourage people to start thinking about that.

I know Alice, you've curated the Resistance & Hope anthology, and there's a lot of great pieces in there. And so, I also encourage people to donate to your projects to ensure that you can keep doing the work that you're doing to uplift the voices of and hands and signs and technology of all of us folks who are living at these intersections as well. And I wanna thank you.

ALICE: Well, I feel thankful for the both of you, the work that people have been doing for decades. I think this is all just part of a larger collective movement, and we all can't do it alone. And I think hopefully in the future, I would love to talk to some of the plaintiffs about their experiences. I like to think of us this as just part of a series, and hopefully we will center on the people who are gonna be the ones that know best, the knows most. So, TL, Claudia, I am so thankful for you for spending this time with me, and thank you so much!

TL: Thank you, Alice.

CLAUDIA: Thank you.

["Dance Off" hip-hop song plays]

This podcast is a production of the Disability Visibility Project, an online community dedicated to creating, sharing, and amplifying disability media and culture.

All episodes, including text transcripts, are available at DisabilityVisibilityProject.com/Podcast.

You can also find out more about Claudia and TL's work on our website.

The audio producer for this episode is Cheryl Green. Introduction by Lateef McLeod. Theme music by Wheelchair Sports Camp.

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♪ Rock it to the blast off

Stop drop dance off ♪